

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0293
Description of development:	Fit out and use of tenancy for a Charcoal Chicken Food and Drink Premises (Shop 20)
Classification of development:	Class 6

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 1 DP 1018519
Property address:	4 Endeavour Avenue, ST CLAIR NSW 2759

DETAILS OF THE APPLICANT

Name & Address:	Simon Munzer C/- Archizone 26/105 Longueville Road LANE COVE NSW 2066
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DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	26 June 2019
Date the consent expires	26 June 2024
Date of this decision	26 June 2019

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Jacqueline Klincke
Contact telephone number:	+612 4732 8391

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the following stamped approved plans issued by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing No.	Prepared By	Project No.	Dated	Issue
Finishes Schedule	A005-02	archizone	2019_005	15/4/19	C
Proposed Floor Plan	A005-04	archizone	2019_005	15/4/19	D
Dimension Plan	A005-05	archizone	2019_005	15/4/19	D
Shopfront Elevation A	A005-09	archizone	2019_005	14/6/19	F
Section AA'	A005-10	archizone	2019_005	15/4/19	C
Section BB'	A005-11	archizone	2019_005	15/4/19	C
Section CC'	A005-12	archizone	2019_005	15/4/19	C
Section DD'	A005-13	archizone	2019_005	15/4/19	C
Menu Detail	A005-18	archizone	2019_005	23/4/19	A
Shopfront Signage Detail	A005-19	archizone	2019_005	23/4/19	B

- 2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and the Australian and New Zealand Food Standards Code are met at all times.

- 3 **The development shall not be occupied until an Occupation Certificate has been issued.**

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required **prior to the issue of the Occupation Certificate**. The occupier is to contact the Environmental Health Team to organise an appointment at least 72 hours prior to the requested inspection time.

- 4 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the issuing of the Occupation Certificate** and operation of the business.
- 5 The approved hours of operation are from 7am to 11pm Monday to Sunday.
- 6 All materials and goods associated with the use shall be contained within the building at all times.
- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 The approved sign shall be erected strictly in accordance with the manufacturer's or engineer's specifications and relevant Australian Standards and shall not unduly reduce or compromise the structural integrity of the existing building.

- 10 The approved sign shall satisfy the relevant provisions of Australian Standard AS 4282 - 1997, *Control of the obtrusive effects of outdoor lighting*.
- 11 In the event that Council receives a complaint regarding excessive noise from the Charcoal Chicken Shop, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitable qualified consultant) and provide a report specifying proposed methods for control of noise emanating from the premises.
- 12 An intruder alarm installed at the premises shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Environmental Matters

- 13 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the shopping centre or nearest sensitive receiver. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating noise.

BCA Issues

- 14 Access for persons with disabilities is to be provided and maintained in accordance with the requirements of the Building Code of Australia and Australian Standard AS 1428 "Design for Access and Mobility".
- 15 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
 - (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
 - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 16 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
 - (a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 17 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

- 18 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

Ventilation must be operated and maintained in a proper and efficient manner which does not cause air pollution, in accordance with s. 124 and 125 of the POEO Act or a dust nuisance.

The exhaust and mechanical ventilation is to be operated and installed as follows:

- Activated carbon adsorbers to be checked regularly for odour 'breakthrough' (and the filter changed once breakthrough has been reached).
- Odours from the premises are not to be detectable at the nearest sensitive land use.
- Exhaust stacks to be vented at a height clear of downwash effects from the building in which the activity is located and adjacent buildings and a minimum of 3 m above the highest point of the building roof ridge line or above that of any higher adjacent building within 50 m.
- Exhaust stack gases to be vented with a design exit velocity of at least 10 m/s without any impediment to vertical discharge.
- The particulate filtration system installed (for example, a filter or grit arrestor in the cooking ventilation system) to be maintained in efficient working order at all times.
- The ventilation system used for collection of emissions (e.g. fume hood) to be maintained in efficient working order at all times. Material accumulated on the inside of the hood and ductwork (e.g. fats from cooking) to be checked and removed periodically.

- 19 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- 20 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

Hand basins must be provided within the (1) toilet cubicle, (2) chicken cleaning and cutting area (3) general cooking area, and (4) coolroom/freezer area

- 21 Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.

- 22 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 23 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 24 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 25 The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.
- 26 The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- 27 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- (a) Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and covered at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- (b) Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- (c) Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or molded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

- 28 The coolroom and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.
- 29 Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.
- 30 The coolroom and freezer room must be provided with:
- A door which can at all times be opened from inside without a key and
 - An approved alarm device located outside the room, but controlled only from the inside.
- 31 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Utility Services

32 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

Construction

33 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

34 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

35 Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Certification

36 Prior to the commencement of any construction works on site, the proponent is to:

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and

(b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

Information to accompany the Notice of Commencement

Two (2) days before any construction/demolition works are to commence on site, the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.

37 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

SIGNATURE

Name:	Paul Anzellotti Acting Principal Planner
Signature:	

For the Development Services Manager